

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11418-NMG

ANDREW CHMIELINSKI
Plaintiff

v.

**COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE COMMISSIONER OF PROBATION
and COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT and JOHN J. O'BRIEN, INDIVIDUALLY
and ANTHONY J. SICUSO, INDIVIDUALLY
Defendants**

JOINT MOTION TO CONTINUE HEARING ON MOTION TO DISMISS

The parties to the above-captioned action, through counsel, hereby respectfully request that the hearing on the motion to dismiss currently scheduled to take place on December 6, 2006, be continued to a date either later in December or in early January 2007 (as is set forth specifically below). As grounds for this motion, counsel state as follows:

1. Defendants filed a motion to dismiss in this action in March 2006.
2. In November 2006 the motion to dismiss was referred to Magistrate Sorokin. The motion to dismiss has been scheduled for hearing on December 6, 2006.
3. Counsel for Plaintiff is scheduled to commence trying a jury trial in Plymouth Superior Court on December 6, 2006. If the case proceeds on December 6, 2006, it is anticipated that the trial will last for at least a week. Counsel for Plaintiff is also scheduled for trial in mid January and late January.
4. Counsel for Defendants is scheduled to be conducting a trial on December 6, 2006. Additionally, counsel for Defendants has vacation scheduled for the end of December.
5. Counsel for the parties are available to conduct the hearing on the motion to dismiss either on December 18, 2006, December 21, 2006 or the first week of January 2007.

For all of the foregoing reasons, it is respectfully requested that the hearing on the motion to dismiss currently scheduled for December 6, 2006, be continued to either December 18, 2006, December 21, 2006 or the first week of January 2007.

Respectfully submitted,

ANDREW CHMIELINSKI

By his attorney,

/s/Mitchell J. Notis

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COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE COMMISSIONER OF PROBATION
AND TRIAL COURT, JOHN J. O'BRIEN, ANTHONY SICUSO

By their attorneys,

/s/ Sarah M. Joss

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CERTIFICATE OF SERVICE

I, Mitchell J. Notis, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that paper copies will be sent to any non-registered participants as indicated in the Notice of Electronic Filing, this 20th day of November, 2006.

/s/Mitchell J. Notis

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